

Domingo, David

From: Mayor Johnson <mayorjohnson@driggsidaho.org>
Sent: Friday, March 03, 2017 2:03 PM
To: Domingo, David
Cc: Jared Gunderson; Bellovary, Chris; Steve Zollinger; Jay Mazalewski
Subject: City of Driggs information requested
Attachments: Summary for EPA 3-3-2017.pdf

Gentlemen,

Please find the additional information you requested attached. We look forward to working with you further. Please let me know if you have any further questions.

Mayor Hyrum Johnson,

City of Driggs

60 South Main Street

Driggs, Idaho 83422

www.driggs.govoffice.com

facebook.com/DriggsIdaho

208-354-2362 (phone)

208-354-8522 (fax)

***Remember that all communications can be obtained or shared pursuant to the state open records law Idaho Code Ann. Secs. 9-337 to 9-350

On Mon, Jan 30, 2017 at 3:30 PM, Domingo, David <Domingo.David@epa.gov> wrote:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

1200 Sixth Avenue, Suite 900

Seattle, Washington 98101-3140

OFFICE OF

COMPLIANCE AND ENFORCEMENT

The Honorable Hyrum Johnson

Mayor, City of Driggs, Idaho

mayorjohnson@driggsidaho.org

Re: Notice of Intent to File Administrative Complaint for Violations of the Clean Water Act

Opportunity to Confer Prior to Filing

Dear Mayor Johnson,

The U.S. Environmental Protection Agency (EPA) has documented violations of the Clean Water Act at the City of Driggs Wastewater Treatment Facility located at 1250 West Bates Road, Driggs, Idaho. A list of the violations is attached. The purpose of this notice is to inform you that EPA is prepared to initiate an enforcement action for these violations and to offer you the opportunity to discuss this matter with EPA prior to the filing of a complaint.

Section 309 of the Clean Water Act, 33 U.S.C. § 1319, and 40 C.F.R. Part 19 authorize EPA to assess administrative penalties for violations of the Clean Water Act of up to \$20,965 per day per violation or to bring a civil action in federal district court seeking civil penalties of up to \$52,414 per day for each violation. Under the terms of Section 309, EPA must consider the following factors in determining the amount of penalty it will seek: the nature, circumstances, extent, and gravity of the violation(s); ability to pay; any prior history of such violations; the degree of culpability; economic benefit or savings (if any) resulting from the violation; and such other matters as justice may require.

Please refer to EPA's *Interim Clean Water Act Settlement Penalty Policy* for guidance on appropriate penalties in settlement of civil administrative and judicial actions at <http://www2.epa.gov/enforcement/interim-clean-water-act-settlement-penalty-policy>.

In general, EPA favors pre-filing discussions, which help ensure that we have all relevant information and may lead to resolution that avoids the time and expense of litigation. If we are able to reach a settlement, we would resolve the case with an administrative consent agreement and final order, and EPA would not file a complaint. Once a consent agreement and final order is signed by all parties, EPA generally issues a press release announcing the settlement.

If the City and EPA do not reach a settlement **within 90 days of this notice**, EPA will either file an administrative complaint and the case will be assigned to an administrative law judge or refer the matter to the Department of Justice for filing in federal district court. EPA reserves the right to seek the maximum allowable penalty in litigation of this case should the City and EPA fail to reach a settlement in the time period allotted.

To reach settlement within 90 days, we will need to begin pre-filing negotiations within 30 days. If you wish to set up an initial meeting to discuss this matter, please contact Chris Bellovary in the Office of Regional Counsel at (206) 553-2723 **within 14 days of this notice**. EPA is willing to meet with you at our Seattle office or by conference call. If we do not hear from you within 14 days, EPA intends to initiate formal enforcement action unilaterally.

Thank you for your prompt attention to this important matter.

Sincerely,

/David Domingo/

David Domingo

Office of Compliance and Enforcement

Attachment:

1. List of Violations

cc: Chris Bellovary

Office of Regional Counsel